

8819-T  
RECORDATION NO. Filed 1425

OCT 30 1980-1 00 PM

**ITEL**

INTERSTATE COMMERCE COMMISSION

Rail Division 100 Washington, D. C.

Two Embarcadero Center  
San Francisco, California 94111  
(415) 955-9090  
Telex 34234

October 2, 1980

Ms. Agatha Mergenovich, Secretary  
Interstate Commerce Commission  
Washington, DC 20423

Re: Itel Corporation  
Equipment Trust 1977 Series 2  
Equipment Trust Agreement dated as of March 15, 1977  
9½% Equipment Trust Certificates due October 31, 1992

Dear Ms. Mergenovich:

Pursuant to 49 U.S.C. Section 11303(a) and the Interstate Commerce Commission's rules and regulations thereunder, I enclose herewith, on behalf of Itel Corporation, for filing and recordation, as an additional filing under the Lease Agreement, dated as of April 20, 1977, which was filed on May 11, 1977 at 1:15 P.M. and given Recordation No. 8819, three (3) executed counterparts of the following document:

Assignment of Lease and Agreement dated as of September 10, 1980.

The names and addresses of the parties to the aforementioned document are:

- (1) Itel Corporation, Rail Division  
Two Embarcadero Center, 24th Floor  
San Francisco, California 94111
- (2) First Security Bank of Utah, N.A. as Trustee  
79 South Main Street  
Salt Lake City, Utah 84111

Please cross-index the above-referenced Assignment with the following document, which is filed under Recordation No. 8781:

Equipment Trust Agreement, dated as of March 15, 1977 between First Security Bank of Utah, N.A. as Trustee, and Itel Corporation.

The equipment covered by the enclosed Assignment is one hundred (100) boxcars (A.A.R. mechanical designation XM; 50'6" in length, 9'6" in inside width, 10'7" in height and with 8' double sliding doors), formerly, and until remarked, marked with McCloud Railroad marks in the series MR 2000 through and including 2399, to be remarked to SERA 4500 through and including 4599.

Enclosed also is a check for \$20.00 for the required recordation (\$10.00) and cross-indexing (\$10.00) fees.

Please stamp all counterparts of the enclosed document with your official recording stamp. You will wish to retain one (1) counterpart of the document for your files; it is requested that the remaining two (2) counterparts be delivered to the bearer of this letter.

Sincerely,

  
Patricia Salas Pineda  
Counsel

PSP:vv

cc: Robert S. Clark, Esq.  
Mike Walsh, Esq.  
Steve C. Wight

L-0061  
9/26/80

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INTERSTATE COMMERCE COMMISSION

**ASSIGNMENT OF LEASE AND AGREEMENT** dated as of September 10, 1980 (hereinafter called the "Assignment"), by and between **Itel Corporation**, a Delaware corporation, as successor to **SSI Rail Corp.** (together with its successors and assigns, being hereinafter called "Itel") and **First Security Bank of Utah, N.A.** (hereinafter called the "Trustee").

**WHEREAS**, Itel and Trustee are the parties to an Equipment Trust Agreement dated as of March 15, 1977 (such Equipment Trust Agreement, together with any amendments or supplements thereto, being hereinafter called the "Agreement") which was filed and recorded with the Interstate Commerce Commission pursuant to 49 U.S.C. Section 11303, on April 14, 1977 and given recordation number 8781; and

**WHEREAS**, Itel and the McCloud River Railroad Company (hereinafter called the "Lessee") have entered into a lease of Equipment (as defined in the Agreement) dated as of April 20, 1977 (such lease, together with any amendments or supplements thereto, being hereinafter called the "Lease"), providing for the leasing by Itel to the Lessee of certain of the units of the Trust Equipment (as defined in the Agreement); and

**WHEREAS**, the Lease may also cover the leasing to the Lessee of other equipment not included as part of the Trust Equipment; and

**WHEREAS**, the Lessee, with the consent of Itel, has entered into a sublease, made as of August 29, 1980 (hereinafter called the "Sublease") with the Sierra Railroad Company (hereinafter called the "Sublessee") of one hundred (100) units of Trust Equipment leased by Itel under the Lease to the Lessee, and bearing Lessee's road numbers from the series MR 2000 to and including 2399; and

**WHEREAS**, pursuant to the Sublease, the road numbers of said Trust Equipment are to be changed by remarking to SERA 4500 to and including SERA 4599; and

**WHEREAS**, upon remarking, Itel will provide the Trustee with a Certificate, to be attached hereto and become a part hereof, describing both the previous and current road number of each unit of Trust Equipment; and

**WHEREAS**, Itel has consented to the Sublease and the Lessee has assigned its rights in, to, and under the Sublease to Itel; and

**WHEREAS**, the Sublease may also cover the leasing to Sublessee of other equipment not included as part of the Trust Equipment; and

**WHEREAS**, in order to continue to provide security for the obligations of Itel under the Agreement, Itel agrees to assign for security purposes its rights in, to, and under the Sublease to the Trustee as and only to the extent that the Sublease relates to the Trust Equipment;

**NOW, THEREFORE**, in consideration of the payments to be made and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree as follows:

1. Itel hereby assigns, transfers and sets over unto the Trustee, as collateral security for the payment and performance of Itel's obligations under the Agreement, all of Itel's right, title and interest, powers, privileges, and other benefits under the Sublease as and only to the extent that the Sublease relates to the Trust Equipment, including, without limitation, all rights to receive and collect all rentals, profits, and other sums payable to or receivable by Itel from the Sublessee under or pursuant to the provisions of the Sublease to the extent that the same are payable in respect of the Trust Equipment, whether as rent, casualty payment, indemnity, liquidated damages or otherwise (such monies being hereinafter called the Payments); provided, however, that until an Event of Default under the Agreement, or any event which with notice or lapse of time or both, could constitute such an Event of Default, shall occur, it is understood that Itel shall be entitled to collect and receive all such Payments and to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Sublease, and to apply all Payments to which Itel is entitled to the payment of any and all of Itel's obligations under the Agreement. In furtherance of the foregoing assignment, but subject to the foregoing provisions of this paragraph, Itel hereby irrevocably authorizes and empowers the Trustee in its own name, or in the name of its nominee, or in the name of Itel or as its attorney, to ask, demand, sue for, collect and receive any and all Payments to which Itel is or may become entitled under the Sublease, and to enforce compliance by the Sublessee with all the terms and provisions thereof. Whenever the Sublease covers other equipment not included as part of the Trust Equipment and the amount of any payment due to Itel under the Sublease as car hire payments (including both straight and incentive per diem), mileage charges or other rental revenues is calculated on an aggregate basis for all equipment leased thereunder, for the purposes of this Assignment, an amount equal to the Assigned Fraction (as hereinafter defined) of each such payment shall be deemed to be payable with respect to the Trust Equipment leased under the Sublease. The term "Assigned Fraction" as used herein shall mean a fraction the numerator of which shall be the number of units of equipment comprising the Trust Equipment leased under the Sublease and the denominator of which shall be the aggregate number of units of equipment (including the units of Trust Equipment) at the time leased under the Sublease.

2. This Assignment is executed only as security for the obligations of Itel under the Agreement and, therefore, the execution and delivery of this Assignment shall not subject the Trustee to, or transfer, or pass, or in any way affect or modify, the liability of Itel under the Sublease, it being understood and agreed that notwithstanding this Assignment or any subsequent assignment, all obligations of Itel to the Sublessee shall be and remain enforceable by the Sublessee, its successors and assigns, against, and only against Itel or persons other than the Trustee.

3. To protect the security afforded by this Assignment, Itel agrees as follows:

(a) Itel will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Sublease provides is to be performed by Itel.

(b) At Itel's sole cost and expense, Itel will appear in and defend every action or proceeding arising under, growing out of or in any manner connected with the obligations, duties or liabilities of Itel under the Sublease.

(c) Should Itel fail to make any payment or to do any act which this Assignment requires Itel to make or do, then the Trustee, but without obligation so to do, after first making written demand upon Itel and affording Itel a reasonable period of time within which to make such payment or do such act, but without releasing Itel from any obligation hereunder, may make or do the same in such manner and to such extent as the Trustee may deem necessary to protect the security provided hereby, including specifically, without limiting its general powers, the right to appear in and defend any action or proceeding purporting to affect the security hereof and the rights or powers of the Trustee, and also the right to perform and discharge each and every obligation, covenant and agreement of Itel contained in the Sublease; and in exercising any such powers, the Trustee may pay necessary costs and expenses, employ counsel and incur and pay reasonable attorneys' fees, and Itel will reimburse the Trustee for such costs, expenses and fees.

4. Upon the full discharge and satisfaction of all of Itel's obligations under the Agreement and this Assignment, all rights herein assigned to the Trustee shall terminate, and all estate, right, title and interest of the Trustee in and to the Sublease shall revert to Itel.

5. Itel will from time to time, do and perform any other act and will execute, acknowledge, deliver and file, register, deposit and record (and will refile, reregister, rerecord or redeposit whenever required), any and all further instruments required by law or reasonably requested by the Trustee in order to confirm or further assure, the interests of the Trustee hereunder.

6. If an Event of Default shall occur and be continuing under the Agreement, the Trustee may assign all or any of the rights assigned to it hereby or arising under the Sublease, including without limitation, the right to receive any Payments due or to become due. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Trustee hereunder. The Trustee will give written notice to Itel and the Sublessee of any such assignment.

7. This Assignment shall be governed by the laws of the State of Utah, but the parties shall be entitled to all rights conferred by 49 U.S.C. Section 11303.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective names, by officers thereunto duly authorized, and their respective seals to be affixed and duly attested, all as of the date first above written.

ITEL CORPORATION

By: Carl H. Lyle

Title: President / Rail Division  
Authorized Officer

(Corporate Seal)

Attest:

Dennis Appel  
Secretary

FIRST SECURITY BANK OF UTAH,  
National Association, as Trustee

By: [Signature]  
Authorized Officer

(Seal)

Attest:

[Signature]  
Authorized Officer

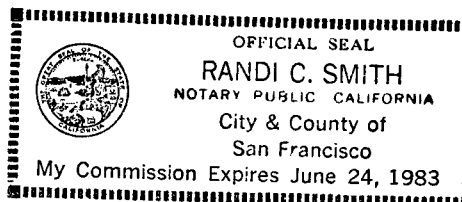
STATE OF CALIFORNIA, )  
 ) ss.:  
COUNTY OF SAN FRANCISCO )

On this 6<sup>th</sup> day of October, 1980, before me personally appeared Carl N. Taylor, to me personally known, who, being by me duly sworn, says that he is President of ITEL CORPORATION, RAIL DIVISION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its By-laws and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Randi C. Smith  
Notary Public

(Notarial Seal)

My Commission expires



STATE OF UTAH, )  
 ) ss.:  
COUNTY OF SALT LAKE )

On this 29<sup>th</sup> day of October, 1980, before me personally appeared John R. Sager, to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY BANK OF UTAH, National Association, a national banking association, that one of the seals affixed to the foregoing instrument is the seal of said national banking association and that said instrument was signed and sealed on behalf of said national banking association by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said national banking association.

Randy B. Marchant  
Notary Public



My Commission expires 2-8-82